

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

WEDNESDAY, THE 14TH FEBRUARY 2007 / 25TH MAGHA 1928

CRL.A.No. 2048 of 2006()

AGAINST THE ORDER IN CRL.LP.165/2005 Dated 28/09/2006
AGAINST THE ORDER DATED 28/12/2004 IN ST.1381/2004 of THE
JUDL. MAGISTRATE OF FIRST CLASS COURT-I, THRISSUR
.....

APPELLANT: COMPLAINANT:

M/S. TEAM PLUS KURIES (P) LTD.,
VIII/5B FRIENDS AUDITORIUM BUILDING,
AMMADOM P.O., REP.BY A.A. MATHEW, S/O. ANTONY,
ARIMBOOR HOUSE, PANINJAYAM DESOM,
PARALAM VILLAGE, THRISSUR.

BY ADV. SRI.DILIP J. AKKARA

RESPONDENTS: ACCUSED/STATE:

1. BYJU, S/O. RAMU, KUTTIKKATTUPARAMBIL
HOUSE, CHERUVATHERY DESOM,
CHEVOOR P.O., THRISSUR.
2. THE STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR HIGH COURT OF KERALA
ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI.PUZHAKKARA MUHAMMED

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD
ON 14/02/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

J.M.JAMES, J.

Crl.A No. 2048 of 2006 (A)

Dated this the 14th day of February, 2007

J U D G M E N T

The complainant before the Judicial Magistrate of the First Class-I, Thrissur, is the appellant. He preferred a complaint as S.T.Case No.1381/2004, before that Court under Section 138 of the Negotiable Instruments Act, against the first respondent. The accused did not appear. A non-bailable warrant was issued. The form of arrest warrant was handed over to the complainant for getting the same executed through the local police. When the case was taken up on the appointed date, the complainant was absent and an application was filed. But nothing had been mentioned about execution of the non-bailable warrant issued by the court below. Therefore, the learned Magistrate dismissed the petition. Hence, this petition after obtaining leave.

2. After hearing the learned counsel for the appellant, there being no representation from the first respondent, despite the service of notice, I set aside the

impugned order dated 28/12/2004 and restore S.T.No.1381/2004 to the file of the Judicial Magistrate of the First Class-I, Thrissur.

3. The appellant shall appear before the court below on 19/03/2007.

4. As the respondent-accused is not before this Court, despite the receipt of the notice, the learned Magistrate shall take coercive steps against him. After the production/appearance of the accused before that court, the matter shall be disposed of, at the earliest, in any case, within two months from the date of appearance/production of the accused.

Appeal is allowed as above.

(J.M.JAMES)
Judge

ms